

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 36236 of 2007(L)

OS.228/2003 of M.C.,VADAKKANCHERRY

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PETITIONER: PLAINTIFF

DAKHAYANI AMMA, D/O. NEDUMKATT
LAKSHMIKUTTY AMMA, NEDUMPURA VILLAGE, DESOM,
THALAPPILLY TALUK, THRISSUR DISTRICT.

BY ADV. SRI.SUDHEESH.A.
SMT.C.V.BINDU

RESPONDENTS: DEFENDANT

MAMMU, S/O. KUTTOOTHA,
KARANCHERY HOUSE, NEDUMPURA VILLAGE,
THALAPPILLY TALUK, THRISSUR DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.36236 OF 2007

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Dated this the 7th day of December 2007

JUDGMENT

This writ petition is preferred against the order passed by the Munsiff's Court, Wadakkancherry in I.A.No.381 of 2005 in O.S.No.228 of 2003. It is an application for setting aside the Commissioner's report and plan. It is the case of the plaintiff that the original title deed takes in 29 cents of land, out of which 3 ½ cents had been acquired for the canal and the balance 25 ½ cents she is entitled to. But as per the documents relied on by the plaintiff, the extent of the property was shown as 23 cents. The request by the plaintiff was to measure the property with respect to the title deed and it has been done by the Commissioner and he cannot be found fault with. It is only at a subsequent stage the plaintiff comes forward with the contention that the extent shown is incorrect. Until and unless it is established, the plaintiff may not be entitled to any relief.

Therefore, the order of the court below at this stage cannot be interfered with. But, at the same time, the plaintiff is at liberty to adduce evidence in support of her contentions and if the court, after evidence is

convinced that there is truth or bona fides in what she says, the court can give appropriate direction to the Commissioner and if necessary direct him again visit the property and submit a proper plan and report.

With the above observations, writ petition is disposed of.

M.N.KRISHNAN, JUDGE

Cdp/-